

## DISTRICT COURT (FIFTH DISTRICT: WASHINGTON COUNTY) [1682]

### PROBATE RECORD BOOKS, 1877-1981

1.5 cu. ft.(3 vol.) and 13 microfilm reels

**DESCRIPTION:** The probate division of Fifth District Court used record books to record a variety of petitions, court orders and decrees associated with the estates of individuals who died owning property in Washington County. During the territorial period the court's predecessor, Washington County Probate Court, also recorded guardianship cases in these books. Beginning in 1920 the books were used again to record guardianships and also to record adoptions.

In 1852, the territorial legislature defined the powers of county probate courts, specifying that those powers included authority to probate wills, administer the estates of deceased persons, and establish guardianships of minors, idiots, and the insane. (An Act in Relation to the Judiciary, in Acts, Resolutions, and Memorials passed by the First Annual, and Special Sessions, of the Legislative Assembly. Great Salt Lake City, 1852, Brigham H. Young, Printer., pp. 38-48). County probate courts were abolished when Utah gained statehood in 1896, and their jurisdiction was transferred to district courts. Jurisdiction for Washington County probate matters and custody of Washington County Probate Court records passed to the probate division of Fifth District Court for Washington County. The new court continued to make entries in the same record books.

The basic procedure for probate cases includes unsealing and admitting a will, if any, and obtaining the testimony of witnesses to prove the will's validity. It also includes such things as appointing administrators; giving notice to creditors; appointing appraisers and filing their report; ordering the sale of property; providing proof of settlement or distribution of the property; and releasing administrators from further responsibility. An extensive probate code was compiled as part of The Compiled Laws of Utah in 1917 (Salt Lake City, 1919, Harden Bennion, vol. 2, Title 118, pp.1493-1545). The clerk was given powers equal to the judge to

conduct routine matters: approve bonds, appoint appraisers, order sales, etc. The general procedures remained much the same, but the form and details were spelled out.

Probate records provide useful information for researchers seeking socioeconomic as well as biographical or family history data. Wills provide details about both property and heirs. Appraisers, if appointed, give a complete list of real estate, security holdings, and frequently household and personal property. Executors named in a will may also provide an inventory and appraisal of property in the case of a large or complicated estate. Petitions to sell property give the legal description of the real estate. The final distribution details property division both in terms of property and heirs.

During the territorial period and again after 1920, the record books include guardianship cases. Most frequently guardianships follow the settlement of an estate in which a minor inherited property. The court appoints a guardian, usually under terms of the will or upon petition of the minor or an older family member. After 1920 the record books also include adoption cases. The records generally indicate particulars about both the child and his adoptive parents, including date of birth, legitimacy, abandonment, if that was the case, death of parents, or other factors in the adoption. They indicate the marital status and general background of the adoptive parents. After 1940, when social service agencies became the predominant mediators of adoptions, information generally became less detailed.

**ARRANGEMENT:** In general, the records are arranged chronologically according to the date filed. Therefore, documents relating to a single case are scattered throughout the time period the case was in probate. Documents are chronological within each book, even though, in the case of Books H, H 1, H 2, and H 3, the books may overlap.

**RESEARCH NOTE:** In 1903 and 1904, the probate clerk began keeping some documents on preprinted forms (Record Books H 1 and H 2). Record Book H 2 was designed to accommodate cases in which the deceased had a will and H 1 to accommodate cases in which a person died intestate. When the preprinted documents were inadequate for the case, the clerk recorded additional documents in Book H or H 3. The clerk made entries in Book H 1 until 1908, an isolated entry in 1918, then abandoned the preprinted version altogether. Entries in Book H 2, made between December 1903 and July 1916, include not more than 15 cases.

**RELATED RECORDS:** The Washington County Probate Court and the probate division of Fifth District Court: Washington County kept registers of action, which chronicle each action taken by the court on a case by case basis. ESTATE ADMINISTRATION INDEX, series 23780, (1880-1903) provides dates and page references where actions were recorded in the probate record books. PROBATE REGISTERS OF ACTION, series 18217, (1902-ongoing) provides dates only. Not all actions noted in the registers of action were recorded in the probate record books. When the court completed the probate process, it often filed the final

decree in the deed record books. Final decrees can be found in series 23262, DEEDS (WASHINGTON); series 23263, DEEDS (SILVER REEF); series 23265, DEEDS (TOQUERVILLE); series 23264, DEEDS (PINE VALLEY); and series 23286, DEEDS (SAINT GEORGE). Prior to 1920, adoptions and guardianships were recorded in a separate volume, series 13505, GUARDIANSHIPS AND ADOPTIONS. Prior to 1877, the Washington County Probate Court kept all records, including records relating to probate, in one set of record books, series 3168, CIVIL AND CRIMINAL RECORD BOOKS.

**ACCESS RESTRICTIONS:** Probate proceedings are public records. However adoption records, which began to be recorded in the Washington County Probate Record Books in 1920, require the permission of Fifth District Court until 100 years have passed.

**PRIOR CREATOR:** Probate Record Books C, F and most of G were created by the Washington County Probate Court. Beginning in May 1896, the record book pages cite, "Proceedings of the Fifth District Court," instead of "Washington County Probate Court of Territory of Utah."

**PROCESSING NOTE:** In October 1966, the Utah Genealogical Society microfilmed record books which had been created up to that date. Subsequent books were microfilmed by Utah State Archives in December 1981. This series was processed by Rosemary Cundiff in December 2000. Hard copy of Record Book C was received from the county in January 2001.

**PREFERRED CITATION:** Cite the Utah State Archives and Records Service, the creating agency name, the series title, and the series number.

## CONTAINER LIST

Reel	Box	Description
1	1	Index to Record Book C
2	1	Oct 1877-Nov 1880 (Record Book C)
3	n/a	Partial index to Record Book F
3	2	Nov 1880-Sep 1889 (Record Book F)
3	3	Sep 1889-Nov 1897 (Record Book G)
4	n/a	Nov 1897-Jan 1908 (Record Book H, pages 1-551)
5	n/a	Dec 1907-Apr 1910 (Record Book H, pages 548-701)
5	n/a	May 1904-Dec 1908 (Record Book H 1, printed forms, Probate Record)
5	n/a	Dec 1903-Jul 1916 (Record Book H 2, printed forms, Record of Wills)
5	n/a	Jul 1910-Jan 1922 (Record Book H 3)
5	n/a	Dec 1921-May 1924 (Record Book H 4, pages

<b>Reel</b>	<b>Box</b>	<b>Description</b>
		1-228)
6	n/a	May 1924-Mar 1929 (Record Book H 4, pages 229-641)
6	n/a	Mar 1929-Nov 1938 (Record Book H 5)
6	n/a	Index to Record Books 5 and 4
6	n/a	Nov 1938-Jan 1942 (Record Book H 6, pages 1-237)
7	n/a	Jan 1942-Jul 1947 (Record Book H 6, pages 234-644)
7	n/a	Jul 1947-Mar 1954 (Record Book H 7)
7	n/a	Index to Record Book H 7
7	n/a	Mar 1954-Sep 1956 (Record Book H 8, pages 1-313)
8	n/a	Sep 1956-Oct 1959 (Record Book H 8, pages 310-600)
8	n/a	Index to Record Book H 8
8	n/a	Oct 1959-Jul 1966 (Record Book H 9)
9	n/a	Jul 1966-Jan 1972 (Record Book H 10)
10	n/a	Jan 1972-Jul 1973 (Record Book H 11)
10	n/a	Jul 1973-Mar 1975 (Record Book H 12)
11	n/a	Mar 1975-Sep 1975 (Record Book H 12, continued)
11	n/a	Sep 1975-Jul 1977 (Record Book H 13)
11	n/a	Aug 1977-Sep 1978 (Record Book H 14)
12	n/a	Sep 1978-Sep 1979 (Record Book H 14, continued)
12	n/a	Oct 1979-Aug 1981 (Record Book H 15)